



Forest Carbon Partnership Facility

Update on ERPA General Conditions

FCPF Carbon Fund Meeting (CF10)

Bonn, June 16-19, 2014

Overview

I. Update on Roadmap for ERPA General Conditions

II. Outstanding Issues for Discussion

- Cost allocation
- Events of Default & Remedies

III. Next Steps



I.

Update on Roadmap for FCPF ERPA General Conditions

Time	Action
December 8-9	CF8 meeting in Paris; approval of the MF
December 12, 2013	Pre-PC16 Workshop (Geneva, Switzerland) on Implications of MF on ERPA GCs
December 13-15, 2013	PC16 (Geneva, Switzerland) on Implications of MF on ERPA GCs
April 9-11, 2014	CF9 meeting in Brussels
June 16-19, 2014	CF10 meeting in Bonn
July 1-4, 2014	PC17 (Lima, Peru); presentation of cornerstones of ERPA GCs
August-October 2014	(Potentially) additional explanatory sessions on ERPA GCs (primarily for PC members and countries under consideration of the FCPF Carbon Fund)
October/November 2014	PC18 (tbd); endorsement of ERPA GCs by PC



II.

Outstanding Issues for Discussion

Allocation of Costs

- What Costs? -

- **Costs related to ER Program preparation, e.g.:**
 - ER Program assessment (due diligence)
 - Preparation/review of ERPD, Reversal Management Mechanism, Benefit Sharing Plan, Safeguards Plans, Title risk assessment, etc.
 - Preparation/execution of ERPA
- **Costs related to ER Program implementation/supervision, e.g.:**
 - Verification
 - Communication with registries/other (international) bodies
 - Revision/review of ER Program-related documents
 - Supervision
 - External advisers, if needed

Allocation of Costs

- Seller Costs -

- **Costs incurred by Seller to be borne by Seller**
- **Expected to be covered through:**
 - Own resources
 - External funding/ financing
 - FCPF funding, if any & as applicable
 - FCPF ERPA payments (e.g. advance/periodic payments)
 - Future (other) ERPA payments

Allocation of Costs

- Buyer Costs (Options) -

- **Option 1: Costs borne by Buyer**
 - Covered through Carbon Fund property (including FCPF (Bank-executed) grant funding, if any)
- **Option 2: Cost Recovery via ERPA payment deductions**
 - Subject to certain Cost caps
 - Excludes FCPF (Bank-executed) grant funding, if any
- **Option 3: Cost Recovery via Cost Recovery Discount**
(recommended)
 - Certain discount applied to periodic payment for any transferred ER
 - If ER Program does not generate any/the expected amount of ERs, there is no/reduced Cost recovery

Events of Default

- ER Transfer Failure
- **Reversal, if not cured through Reversal Management Mechanism**
- **Failure to Transfer Title to ERs, if not cured through ER Program Buffer**
- Adverse change in status of Seller (e.g. liquidation, insolvency, dissolution, change of ownership)
- Material delay in ER Program development
- Failure to implement Reversal Management Mechanism, Benefit Sharing Plan, Safeguards Plans and ER Monitoring Plan
- Engagement in Sanctionable Practices (anti-corruption guidelines)
- Material breach by Seller of other ERPA terms

Events of Default

- Default Notice / Cure Period / Action Plan -

- **Default Notice**
- Buyer has two options to proceed:
 - **Cure Period** (90 days), or
 - **Action Plan** (with specified time period)
- If Event of Default is not cured within Cure Period/during Action Plan time period, Buyer may **exercise certain remedies**.
- **If Event of Default is a failure to implement any Safeguards Plan(s), Seller's rights to transfer any amount of ERs affected by such failure and to request payment for such affected ERs shall be suspended until such failure has been cured.**

Events of Default

- Buyer's Remedies (I) -

- **ER Transfer Failure (non-intentional)**
 - Another Action Plan (if deemed practicable)
 - Allowing transfer of shortfall ERs in subsequent Reporting Period(s)
 - Reduce Minimum Reporting Period Amount(s) and converting reduced ER amounts into Call Option
 - If ER shortfall equals or exceeds [10]% of the Cumulative Amount, terminate the ERPA and recover from Seller [any unrecovered Costs, and (only under Cost Option 2)], if applicable, any Taxes paid and any Advance Payment(s) made and not yet deducted from Periodic Payments
- **Delay in Expected Program Commissioning Date**
 - Allowing transfer of delay-related shortfall ERs in subsequent Reporting Period(s)
 - Reduce Minimum Reporting Period Amount(s) and converting reduced ER amounts into Call Option

Events of Default

- Buyer's Remedies (II) -

- **Intentional Event of Default (incl. ER Transfer Failure)**
 - Terminate the ERPA and
 - Recover from Seller [any unrecovered Costs, and (only under Cost Option 2)], if applicable, any Taxes paid and any Advance Payment(s) made and not yet deducted from Periodic Payments, with interest accruing at a rate of LIBOR, plus
 - (Liquidated) damages in amount that represents any losses, damages and costs suffered by the Buyer as a result of the Event of Default
- **Other Events of Default**
 - Another Action Plan (if deemed practicable)
 - Terminate the ERPA and recover from Seller [any unrecovered Costs, and (only under Cost Option 2)], if applicable, any Taxes paid and any Advance Payment(s) made and not yet deducted from Periodic Payments



III.

Next Steps

Next Steps

- The FMT will present the (revised) ERPA General Conditions **in a more simplified/general manner** at the next PC17 (July 1-4, 2014, Lima (Peru))
- After PC17, the FMT will organize **targeted information sessions** for countries by video-conference, especially for countries under consideration of the FCPF Carbon Fund
- The FMT will organize a **pre-PC18 workshop**
- The FMT will aim at **endorsement of ERPA General Conditions at PC18 in October/November 2014**



THANK YOU